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June 9, 2004

VIA FEDERAL EXPRESS

Chairman and Commissioners
Public Utilities Commission
of the State of Hawaii
465 South King Street
First Floor
Honolulu, HI 96813

**Re: Docket No. 03-0371, Instituting A Proceeding To Investigate
Distributed Generation In Hawaii.**

Dear Chairman and Commissioners:

Enclosed for filing on this date in the above-captioned docket are the original and eight copies of the Notice of Withdrawal and Certificate of Service of Johnson Controls, Inc.

Kindly receipt stamp the additional copy and return it to me in the enclosed, self-addressed, stamped envelope.

Should you have any questions, please do not hesitate to contact me at (808) 331-2027. Thank you for your attention to this matter

Sincerely,



Thomas C. Gorak

Enclosures

PUBLIC UTILITIES
COMMISSION

JUN 10 12 08 PM '04

RECEIVED

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII**

PUBLIC UTILITIES
COMMISSION

JUN 10 12 08 PM '04

FILED

--- In the Matter of ---)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate Distributed Generation)
in Hawaii)
_____)

DOCKET NO. 03-0371

**NOTICE OF WITHDRAWAL
AND CERTIFICATE OF SERVICE OF
JOHNSON CONTROLS, INC.**

Johnson Controls, Inc. ("JCI"), a Party to this docket, hereby files its notice of withdrawal and certificate of service in the above-captioned docket. For the reasons set forth below, JCI will not continue to participate in this proceeding.

This proceeding was instituted by the Public Utilities Commission of the State of Hawaii ("PUC" or "Commission") in Order No. 20582, dated October 21, 2003, as an investigation to examine the potential benefits and impacts of distributed generation on Hawaii's electric distribution systems and market. In addition, the Commission stated that this proceeding could be utilized to address issues raised in the informal complaint filed by Pacific Machinery, Inc., Johnson Controls, Inc., and Noresco, Inc., against the Hawaiian Electric Company, the Maui Electric Company, and the Hawaiian Electric Light Company on July 2, 2003 (Informal Complaint No. IC-03-098).

JCI is a publicly-held business generally engaged in the provision of heating, cooling, energy conservation, and related services and equipment, and plans, designs, installs, and maintains distributed generation systems, including combined heat and power ("CHP") systems. There is no doubt that the outcome of this proceeding will have a direct and substantial impact on the development of distributed generation in the state of Hawaii in general, and, in particular, on the ability of JCI to effectively compete for potential customers for its distributed generation products.

As discussed in its preliminary statement of position, JCI firmly believes that in order for the benefits associated with distributed generation to be maximized, all competitors – including regulated electric companies – desiring to supply such systems and services must be placed on a level playing field. In JCI's view, this can only be accomplished by removing distributed generation system and service offerings from regulation by requiring regulated electric companies that desire to compete to provide those systems and services to do so through an unregulated affiliate.

As the Commission is aware, the Informal Complaint was filed jointly by JCI, Pacific Machinery, Inc. ("PMI"), and NORESKO, Inc. The informal complaint was closed and the issues deferred until this docket. Initially, JCI and PMI (but not NORESKO) intervened jointly and severally in this docket. However, as discussed in JCI's Preliminary Statement of Position, PMI was recently sold to Hawthorne Machinery Co. ("Hawthorne"), and Hawthorne is re-evaluating PMI's position in this docket. Whatever Hawthorne ultimately decides to do, what is clear now is that it is no longer proceeding jointly with JCI.

Thus, what began as a joint group of three non-regulated businesses has now been reduced to a single business, JCI. Hence, the costs to participate in this proceeding (that originally were anticipated to be split three ways) would now have to borne solely by JCI.¹

JCI was unaware of the activity concerning PMI until just two days prior to the filing of the Preliminary Statement of Position. At that time, JCI elected to go forward with that statement of position and to comply with the deadline for filing data requests while it reassessed the cost of participating in this proceeding. However, JCI has now been served with numerous data requests by a variety of parties, including the regulated electric utilities (which filed 58 enumerated requests, many of which include multiple “sub-requests”), the Division of Consumer Advocacy, The Gas Company, and Hess Microgen.


Given the departure of PMI and NORESKO from the group, JCI has determined that it cannot alone bear the costs of continued participation in this docket. The costs are simply too high for a single entity given what is, at best, an uncertain outcome.

¹ JCI does not dispute PMI and NORESKO’s right to make their own business decisions, but is merely explaining why it has elected not to go forward at this point.

JCI wishes to express its appreciation to the Commission for inviting it to participate in this docket, and urges the Commission to act so as to engender a truly competitive market for distributed generation in Hawaii. However, at this point, JCI must respectfully, and regretfully, withdraw from these proceedings.

Respectfully submitted,

JOHNSON CONTROLS, INC.

By: 
Thomas C. Gorak
Hawaii Bar No. 0007673

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Kailua-Kona, HI 96740-3218
(808) 331-2027

June 9, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this day I have served a copy of the foregoing "Notice Of Withdrawal And Certificate Of Service Of Johnson Controls, Inc." by depositing same in the United States Mail, first class postage prepaid, and addressed to the following:

Public Utilities Commission 465 South King Street First Floor Honolulu, HI 96813	Original plus 8 copies
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Division of Consumer Advocacy 335 Merchant Street Room 326 Honolulu, HI 96813	3 copies
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Thomas W. Williams, Jr. Esq. Peter Y. Kikuta, Esq. Goodsill, Anderson, Quinn & Stifel Alii Place, Suite 1800 1099 Alakea Street Honolulu, Hawaii 96813	1 copy
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William A. Bonnet Vice President Hawaiian Electric Company, Inc. Hawaii Electric Light Company, Inc. Maui Electric Company, Limited P. O. Box 2750 Honolulu, Hawaii 96840-0001	1 copy
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Patsy H. Nanbu Hawaiian Electric Company, Inc. P. O. Box 2750 Honolulu, Hawaii 96840-0001	1 copy
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Alan M. Oshima, Esq. Kent D. Morihara, Esq. 841 Bishop Street, Suite 400 Honolulu, Hawaii 96813	2 copies
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Alton Miyamoto President & CEO Kauai Island Utility Cooperative 4463 Pahe'e Street Lihue, Hawaii 96766	1 copy
George T. Aoki, Esq. The Gas Company P.O. Box 3000 Honolulu, HI 96802-3000	1 copy
Steven P. Golden The Gas Company P.O. Box 3000 Honolulu, HI 96802-3000	1 copy
Gail S. Gilman The Gas Company P.O. Box 3000 Honolulu, HI 96802-3000	1 copy
Brian T. Moto Corporation Counsel County of Maui Department of the Corporation Counsel 200 S. High Street Wailuku, HI 96793	1 copy
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Kalvin K. Kobayashi, Energy Coordinator County of Maui Department of Management 200 S. High Street Wailuku, HI 96793	1 copy

Warren S. Bollmeier II, President Hawaii Renewable Energy Alliance 46-040 Konane Place, #3816 Kaneohe, Hawaii 96744	1 copy
John Crouch Box 38-4276 Waikoloa, HI 96738	1 copy
Rick Reed Inter Island Solar Supply 761 Ahua Street Honolulu, HI 96819	1 copy
Henry Curtis Life of the Land 76 North King Street, Suite 203 Honolulu, HI 96817	3 copies
Sandra --Ann Y. H. Wong, Esq. 1050 Bishop Street, #514 Honolulu, Hawaii 96813	1 copy
Christopher S. Colman Deputy General Counsel Amerada Hess Corporation One Hess Plaza Woodbridge, N.J. 07095	1 copy
Michael de'Marsi Hess Microgen 4101 Halburton Road Raleigh, NC 27614	1 copy
Gordon Bull Branch Manager Johnson Controls, Inc. 3526 Breakwater Court Hayward, CA 94545	1 copy
Jim Reisch Pacific Machinery, Inc. 94-025 Farrington Highway Waipahu, Hawaii 96797	1 copy

Lani D. H. Nakazawa, Esq. 2 copies
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County of Kauai
4444 Rice Street, Suite 220
Lihue, HI 96766

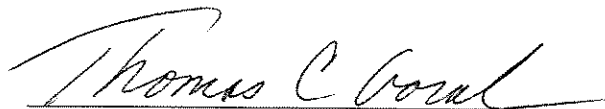
Glenn Sato, Energy Coordinator 1 copy
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4444 Rice Street, Suite 220
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John W. K. Chang, Esq. 1 copy
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Department of the Attorney General
State of Hawaii
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Maurice H. Kaya, P.E. 1 copy
Chief Technology Officer
DBEDT-Strategic Industries Division
P. O. Box 2359
Honolulu, HI 96804

Steven Alber 1 copy
Energy Analyst
DBEDT-Strategic Industries Division
P. O. Box 2359
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Dated: Kailua-Kona, Hawaii, June 9, 2004.



Thomas C. Gorak
Hawaii Bar No. 0007673

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